



California Fair Political Practices Commission

May 11, 1988

Honorable Roy A. Woodward
Santee City Councilmember
10765 Woodside Avenue
Santee, CA 92071-3198

Re: 88-173

Dear Mr. Woodward:

Your letter requesting advice under the Political Reform Act was received on May 9, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, we will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

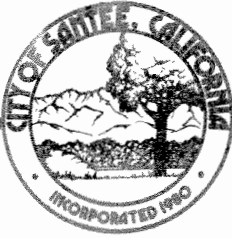
Very truly yours,

A handwritten signature in cursive script, appearing to read "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh

City Manager
Ronald L. Ballard



CITY OF SANTEE

MAY 9 2 43 PM 88

Mayor
Jack Doyle
City Council
Jim Bertell
Mike Clark
Jack E. Dale
Roy A. Woodward

May 6, 1988

John H. Larson, Chairman
Fair Political Practice Commission
428 'J' Street Suite#800
Sacramento, Ca. 95814

Dear Mr. Larson,

In 1986 I became an elected Councilman in the City of Santee.

I have also and continued to be an active Realtor (Commercial & Industrial) and a Property Manager.

Because of my experience in the private-sector. I was appointed to the Town Center Task Force, which deals with the development of approximately 800 acres of mostly vacant land including a small amount under private ownership owned by Mr. Chilcote & Hahn Development Co.

Prior to taking a seat on the Santee City Council, I had been working with the Chilcote Co. in obtaining either tenants or a purchaser for a number of their properties including a parcel located in Town Center.

I have continued my private dealings with both the Chilcote Co. & Hahn Development Co. and in fact have submitted a purchase offer on 3 acres of the Chilcote 13 acre parcel. I am pursuing a lease arrangement between Hahn & Pacific Theaters - the commission from either of the above and probably any future dealing would exceed \$10,000.00. I have always excused myself from any deliberation by the City Council and refrained from voting when an issue was before it relating to any property above described, or any property of which I have an interest of any degree. My question is, would this constitute a Conflict of Interest?

Sincerely,

Roy A. Woodward, Councilman

84305

T- 88-176

MEMO

TO: File
FROM: Bruce Robeck *Bruce*
DATE: May 10, 1988
RE: Telephone advice to Sarah Reyes, Treasurer, CA New Leadership Council

QUESTION: What identification is required on a mass mailing sent by a single committee which is controlled by five officeholders?

ANSWER: The name and address of the committee must be shown on the outside of the mailer in at least six point type, and at least one of the committee's controlling candidates must be shown on the outside of the mailer. The names of all controlling candidates do not have to be listed on the inside of the mailer although it might be prudent to do so. All controlling candidates may be listed on the outside of the mailer rather than just one.



California Fair Political Practices Commission

June 29, 1988

Honorable Roy A. Woodward
Councilmember, City of Santee
10765 Woodside Avenue
Santee, CA 92071-3198

Re: Your Request for Advice
Our File No. I-88-173

Dear Councilmember Woodward:

You have requested advice concerning application of the conflict-of-interest provisions of the Political Reform Act (the "Act")^{1/} to your duties as Santee City Councilmember. Since your request seeks general advice rather than advice concerning a specific pending decision, we treat it as a request for informal assistance.^{2/}

QUESTION

When must you disqualify yourself from participating in decisions involving business entities which have done business with or plan to do business with your real estate company?

CONCLUSION

You must disqualify yourself from decisions which will materially affect clients of your company who have provided or promised to provide you with \$250 or more in commission income

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

during the 12 months prior to the decision. You also must disqualify yourself whenever these clients appear before you.

FACTS

In 1986, you were elected to the Santee City Council. You have continued your commercial real estate business since taking office.

You are currently a member of the Town Center Task Force, which is responsible for making recommendations concerning development of 800 acres of mostly vacant land. Included is a small amount privately owned by the Hahn Development Company and by the Chilcote Company. Prior to taking office, you worked with the Chilcote Company to obtain tenants or purchasers for a number of company properties. This included one parcel located in Town Center.

Since taking office, you have continued your business dealings with the Chilcote Company and the Hahn Development Company. You have submitted a purchase offer on three acres of a 13-acre parcel owned by Chilcote. You also are negotiating a lease arrangement between Hahn and Pacific Theatres. The commission income you would receive from either of these transactions would exceed \$10,000.

ANAYLSIS

Section 87100 prohibits a public official from making, participating in, or attempting to influence a governmental decision in which he knows or has reason to know he has a financial interest. A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family or on, among other things:

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(c).

Regulation 18704.3 (copy enclosed) specifies the sources of commission income to brokers, agents and salesperson. Subdivision (c)(2) provides that the sources of commission income for real estate brokers are:

- (A) The person the broker represents in the transaction;
- (B) If the broker receives a commission from a transaction conducted by an agent working under the broker's auspices, the person represented by the agent;
- (C) Any brokerage business entity through which the broker conducts business; and
- (D) Any person who receives a finder's or other referral fee for referring a party to the transaction to the broker, or who makes a referral pursuant to a contract with the broker.

Under the regulation, Chilcote and Hahn would be considered sources of income to you if you receive or are promised \$250 or more in commission income from them in a 12-month period prior to a decision. If a particular decision would have a foreseeable, material financial effect on Chilcote or Hahn, you would be required to disqualify yourself from participating in the decision. Disqualification would be required even if you would not personally benefit from the transaction.

Regulation 18702.2 (copy enclosed) contains monetary guidelines from determining whether the effect of a decision will be considered material. To apply these guidelines to Chilcote or Hahn, you must first determine which subdivision applies. For a small business covered by subdivision (g), an increase or decrease in the gross revenues of the business or the value of its assets by \$10,000 or more during a fiscal year is considered material. A decision which results in the business incurring or avoiding expenses or reducing existing expenses by \$2,500 or more for a fiscal year would also be considered material under Regulation 18702.2(g).

You also must consider Regulation 18702.1(a) (copy enclosed), in which the Commission has established further guidelines for disqualification. Under Regulation 18702.1(a)(1), a public official may not participate in a decision if a person or business entity which has been a source of income of \$250 or more in the preceding 12 months appears before the official in connection with a particular decision.

Honorable Roy A. Woodward

June 29, 1988

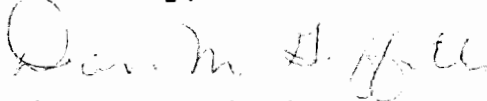
Page -4-

Under these provisions, you must disqualify yourself if a firm which promised you or provided you with \$250 or more in commission income within the preceding 12 months appears before you in connection with a decision. A person or business entity "appears" before a public official when that person or entity, either personally or by an agent, initiates the proceeding in which the decision will be made by filing an application, claim, appeal or similar request, or is a named party in a proceeding such as a contract. (Regulation 18702.1(b).)

The disqualification requirement contained in Regulation 18702.1(a)(1) applies unless one of the exemptions listed in Regulation 18702.1(c) applies. The exemptions that may be available to you in some cases are contained in Regulation 18702.1(c)(1) and (3). The former applies if the effect of the decision on the source of income "will not be distinguishable from its effect on the public generally." The latter applies if "the decision will have no financial effect on the person or business entity who appears before the official."

The advice given in this letter is designed to provide general guidance to you. If you are faced with a particular decision which may affect Chilcote or Hahn, please feel free to contact us for further advice. If you have any questions regarding this matter, you may contact me at (916) 322-5901.

Sincerely,



Diane M. Griffiths
General Counsel

DMG/aa

Enclosures